

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF
Spencer Freeman Smith #236587

Case No. [15-mc-80127-JD](#)

**FURTHER ORDER RE ORDER TO
SHOW CAUSE**

Re: Dkt. No. 9

On July 27, 2016, the Court entered an order suspending Smith's membership in the bar of the United States District Court for the Northern District of California. Dkt. No. 8. The order terminated Smith's performance or appearance as legal counsel in any case in this District.

On August 10, 2016, the Court issued an order directing Smith "to show cause why the Court should not impose sanctions for his failure to withdraw from each active case in which he has appeared as counsel." Dkt. No. 9. The Court noted that Smith continued "to be counsel of record in cases in this District, including *Mitchell v. San Francisco*, Case No. 3:15-cv-00440-CRB." *Id.*

Smith filed a response to the Court's order on August 15, 2016, advising the Court that he was unaware of the fact that he was still a counsel of record in the *Mitchell* case, and representing that once he "discovered this error, [he] immediately filed a notice of change in counsel" in that case. Dkt. No. 10.

The Court has, however, discovered yet another active case in this District in which Smith continues to appear as a counsel of record. It is *Cortes v. County of Santa Clara*, Case No. 5:11-cv-03645-EJD.

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1 It is the Court's view that Smith is not being forthright, and this is exacerbating the
2 underlying disciplinary issues in this matter. Smith is ordered to file by **5 p.m. on Tuesday,**
3 **August 30, 2016,** a declaration under penalty of perjury that lists each and every active case in this
4 District in which Smith is currently listed as a counsel of record, along with a confirmation that he
5 has withdrawn from each and every one of those cases.

6 To be clear, Smith is not authorized to practice law in this District, and continuing to
7 appear as a counsel of record in any active case is a flagrant violation of the Court's order of
8 suspension. Any further gamesmanship on Smith's part will result in a referral for permanent
9 disbarment.

10 **IT IS SO ORDERED.**

11 Dated: August 26, 2016

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14 JAMES DONATO
15 United States District Judge
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